

Appeal Decision

Site visit made on 23 May 2017

by Kevin Gleeson BA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 August 2017

Appeal Ref: APP/N5660/W/17/3168923

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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr N Gourgey, Watchcourt Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 16/05010/FUL, dated 18 August 2016, was refused by notice dated 18 October 2016.
 - The development proposed is described as alterations and change of use to create three self-contained flats at rear of ground floor.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised plan (191-10D) amending the proposed ground floor layout was submitted by the appellant after the Council determined the application. Notwithstanding the fact that the Council did not seek the views of interested parties on the revised plan I do not consider that accepting the proposed internal alterations would prejudice any party. I have therefore taken account of this revised plan in my determination of the appeal.

Main Issues

3. The main issues are
 - the effect of the proposal on the vitality and viability of the retail function of the Stockwell District Centre;
 - whether the proposed development would provide acceptable living conditions for future occupiers with particular regard to daylight, sunlight, layout and the standard of accommodation; and
 - the effect of the proposal on the character and appearance of the host property and the surrounding area.

Reasons

Effect on Retail Function

4. The appeal property occupies the ground floor and rear courtyard of a four storey building with three storey rear extension. The proposal is for the partial
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change of use of the ground floor from a retail use to residential and a ground floor single storey rear extension to create three self-contained flats.

5. The appeal premises are within the boundaries of the Stockwell District Centre whilst the Stockwell Primary Shopping Area is located on the opposite side of Clapham Road. Policy ED6 of the Lambeth Local Plan, 2015 (the Local Plan) states that the Council will protect the vitality and viability of district centres by supporting retail uses, maintaining the predominant retail function of primary shopping areas in district centres and safeguarding shops and other local services. Part (f) of Policy ED6 goes on to state that the subdivision of larger units of over 250 square metres gross floor area within primary shopping areas will not be permitted unless it is demonstrated, though marketing evidence, that there is a lack of demand for larger units.
6. The proposal would maintain the front part of the retail unit. Whilst the existing unit extends to approximately 250 square metres it is not within a primary shopping centre. Consequently I find that it is not necessary to demonstrate through marketing that there is no demand in order for the change of use to be acceptable. The retention of approximately half of the former Post Office unit in retail use including the entire frontage would ensure compliance with Policy ED6. Furthermore, as the premises are not within a primary shopping area the second part of ED6 (f), concerning the effect of the conversion or change of use of storage facilities on the viability of the premises does not apply.
7. The Council indicated that a recent application to extend the retail space which was approved demonstrated that there are likely to be tenants willing to occupy larger premises. Whether or not that is the case does not alter the fact that the proposal does not conflict with Policy ED6.

Living Conditions

8. The proposal is to provide two one-bedroom flats and one two-bedroom flat. Flats 2 and 3 would both have single aspects whilst the kitchen to Flat 2 would be largely internal with the revised layout demonstrating a more open plan relationship with the living space.
9. With the proposed revision to the size of the single bedroom in Flat 3 all of the flats would meet the requirement set out in Standard 24 of the Mayor of London's Supplementary Planning Guidance (SPG) on Housing, 2016 which adopts the nationally described space standards. Accordance with the space standards is also required through Policy 3.5 of the London Plan, 2016. The proposed revision would also ensure that all three flats met the internal space standards for storage set out in Standard 24.
10. Policy H5 of the Local Plan requires that new development should accord with the principles of good design and will be expected to provide dual-aspect accommodation unless exceptional circumstances are demonstrated. Standard 29 of the Housing SPG also indicates that developments should minimise the number of single aspect dwellings although the SPG indicates that single aspect homes are possible. Nevertheless, the necessary conditions to support single aspect homes would not occur in this case. Although limited numbers of rooms would be provided within one and two bedroom units the frontage for each property would be far from generous, especially in the case of Flat 3 where the rear is much wider than the frontage. In addition the proposed units would not

be particularly shallow and whilst generally south facing with gardens it has not been demonstrated that the potential for overheating without the need for mechanical cooling can be adequately mitigated. Moreover, in my view the single aspect flats would provide limited direct sunlight or opportunities for cross ventilation notwithstanding the proposed provision of rooflights.

11. Consequently the exceptional circumstances required by Policy H5 of the Local Plan to justify permitting single aspect units have not been met. Additionally it has not been demonstrated that the proposed kitchen in Flat 2 would be served by adequate natural light or ventilation, even with the proposed modifications to the layout.
12. I therefore find that the single aspect layout of Flats 2 and 3 and the internal kitchen layout of Flat 2 would together provide an unsatisfactory standard of accommodation for future occupiers of the flats contrary to Policy H5 of the Local Plan. It would also be contrary to Standard 29 of the Housing SPG which indicates that developments should minimise the number of single aspect dwellings and Policy 3.5 of the London Plan which states that housing developments should be of the highest quality, internally, externally and in relation to their contexts.

Character and Appearance

13. The proposed extension would project from the side of the host building into the existing courtyard. As a single storey extension it would be subordinate to the host property and therefore would not conflict with Policy Q11 of the Local Plan which identifies subordination as a key consideration when considering proposals for extensions.
14. Policy Q14 of the Local Plan indicates that the Council does not consider gardens to be potential development sites and will resist proposals resulting in the loss biodiversity, soft landscaping or openness, recognising that development in rear gardens has the potential to erode the amenity value and habitat value of rear gardens. It indicates that new building will only be supported where a significant proportion of the existing garden (no less than 70%) is retained with the host building among other requirements. Paragraph 6.6 of the Council's Supplementary Planning Document (SPD) on Building Alterations and Extensions, 2015 also indicates that 70% of any garden should be left undeveloped.
15. The rear yard contains no trees or soft landscaping, makes minimal contribution to openness and does not currently function as a residential garden. I therefore find that the proposal would not conflict with Policy Q14 of the Local Plan or the SPD on Building Alterations and Extensions and would not be harmful to the character or appearance of the host property or surrounding area.

Conclusion

16. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 indicates that an application for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposed development would not be harmful to the vitality and viability of the retail function of the Stockwell District Centre or adversely affect the character or appearance of the host property or surrounding area.

17. The appellant also argued that the proposal would constitute sustainable development in accordance with the National Planning Policy Framework by virtue of providing improved retail facilities, the transformation of the rear yard to provide gardens and the provision of new housing. However, these matters do not outweigh the harm which I have identified in respect of the living conditions for future occupiers. Consequently the presumption in favour of sustainable development does not apply. In the circumstances of this appeal the material considerations do not justify making a decision other than in accordance with the development plan.
18. For these reasons, and having taken into account all other matters raised, I conclude that the appeal should be dismissed.

Kevin Gleeson

INSPECTOR